

Enrolled Version - Final Version

OTHER VERSIONS - [Introduced Version - Originating in Committee](#) | [Engrossed Version](#) |**ENROLLED****Senate Bill No. 591**

(By Senators Hunter, Wooton, Ball, Dittmar,
Kessler, McCabe, Minard, Mitchell, Oliverio,
Redd, Schoonover, Snyder and McKenzie)

[Passed March 13, 1999; in effect ninety days from passage.]

AN ACT to amend and reenact sections thirty-four, thirty-seven and forty-four, article one, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact sections two-a and five-b, article three of said chapter; to amend and reenact sections ten and twenty- three, article five of said chapter; to amend and reenact section three, article six of said chapter; and to amend and reenact sections two, two-a, five, five-a, five-b, five-f, nine, ten and twelve, article eight of said chapter, all relating to election law reform generally; authorizing certain voting from an automobile; authorizing children fourteen years of age or younger to accompany a parent, grandparent or legal guardian to the polls; increasing the compensation for ballot commissioners and poll clerks; changing mileage reimbursement limitations for election supply clerks; modifying prohibition on electioneering within certain distances of circuit clerk's office during absentee voting period; allowing the use of federal write-in ballots in general, special and primary elections for local, state and federal offices; authorizing ballot commissioners to publish facsimile ballot or list of candidates for second publication before any election; increasing the percentage of signatures required on a nomination certificate; eliminating criminal penalty for persons who sign nomination certificate and vote in primary election; imposing reporting requirements on certain independent expenditures; defining term "independent expenditure"; setting forth requirements of communication; establishing limitations on contributions to inaugural events; establishing additional reporting requirements; limiting the expenditure of excess inaugural funds; creating the inaugural expense account for certain excess inaugural funds for inaugural events for a person elected governor; providing for the filing of an additional financial statement during general elections; limiting the information required in a financial statement; clarifying that contributions and loans need not be distinguished between individuals and firms, associations or committees; requiring that expenditures made by agents of candidates need to be included in filing; requiring the secretary of state to post filings on the internet; establishing restrictions and limitations on loans; clarifying allowable campaign expenses; allowing payment of dues, subscriptions or contributions to political parties from campaign funds; disallowing contributions to charitable organizations, political parties or candidates out of excess campaign funds until after the general election; allowing intraparty transfers with certain limitations; and prohibiting the placement of election paraphernalia in roadside receptacles under certain circumstances and providing a penalty for such placement.

Be it enacted by the Legislature of West Virginia:

That sections thirty-four, thirty-seven and forty-four, article one, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that sections two-a and five-b, article three of said chapter be amended and reenacted; that sections ten and twenty- three, article five of said chapter be amended and reenacted; that section three, article six of said chapter be amended and reenacted; and that sections two, two-a, five, five-a, five-b, five-f, nine, ten and twelve, article eight of said chapter be amended and reenacted, all to read as follows:

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.**§3-1-34. Voting procedures generally; assistance to voters; voting records; penalties.**

(a) Any person desiring to vote in an election shall, upon entering the election room, clearly state his or her name and residence to one of the poll clerks who shall thereupon announce the same in a clear and distinct tone of voice. If such

person is found to be duly registered as a voter at that precinct, he or she shall be required to sign his or her name in the space marked "signature of voter" on the pollbook prescribed and provided for the precinct. If such person be physically or otherwise unable to sign his name, his or her mark shall be affixed by one of the poll clerks in the presence of the other and the name of the poll clerk affixing the voter's mark shall be indicated immediately under such affixation. No ballot shall be given to such person until he or she so signs his or her name on the pollbook or his or her signature is so affixed thereon.

(b) The clerk of the county commission is authorized, upon verification that the precinct at which a handicapped person is registered to vote is not handicap accessible, to transfer such person's registration to the nearest polling place in the county which is handicap accessible. Requests by such persons for a transfer of registration shall be received by the county clerk no later than thirty days prior to the date of the election. Any handicapped person who has not made a request for a transfer of registration at least thirty days prior to the date of the election may vote a challenged ballot, at a handicap accessible polling place in the county of his or her registration, and, if during the canvass the county commission determines that the person had been registered in a precinct not handicap accessible, the voted ballot, if otherwise valid, shall be counted. The handicapped person may vote in the precinct to which the registration was transferred only as long as the disability exists or the precinct from which the handicapped person was transferred remains inaccessible to the handicapped. To ensure confidentiality of such transferred ballot, the county clerk processing the ballot shall provide the voter with an unmarked envelope and an outer envelope designated "challenged ballot/handicapped voter". After validation of the ballot at the canvass, the outer envelope shall be destroyed and the handicapped voter's ballot shall be placed with other approved challenged ballots prior to removal of the ballot from the unmarked envelope.

(c) When the voter's signature is properly on the pollbook, the two poll clerks shall sign their names in the places indicated on the back of the official ballot and shall deliver the ballot to the voter to be voted by him or her then without leaving the election room. If he or she returns the ballot spoiled to the clerks, they shall immediately mark such ballot "spoiled" and the same shall be preserved and placed in a spoiled ballot envelope together with other spoiled ballots to be delivered to the board of canvassers and deliver to the voter another official ballot, signed by the clerks on the reverse side as before done. The voter shall thereupon retire alone to the booth or compartment prepared within the election room for voting purposes and there prepare his or her ballot, using a ballpoint pen of not less than five inches in length or other indelible marking device of not less than five inches in length. In voting for candidates in general and special elections, the voter shall comply with the rules and procedures prescribed in section five, article six of this chapter.

(d) It shall be the duty of a poll clerk, in the presence of the other poll clerk, to indicate by a check mark inserted in the appropriate place on the registration record of each voter the fact that such voter voted in the election. In primary elections the clerk shall also insert thereon a distinguishing initial or initials of the political party for whose candidates the voter voted. If a person is challenged at the polls, such fact shall be indicated by the poll clerks on the registration record together with the name of the challenger. The subsequent removal of the challenge shall be recorded on the registration record by the clerk of the county commission.

(e)(1) No voter shall receive any assistance in voting unless, by reason of blindness, disability, advanced age or inability to read and write, that voter is unable to vote without assistance. Any voter qualified to receive assistance in voting under the provisions of this section may:

(A) Declare his or her choice of candidates to an election commissioner of each political party who, in the presence of the voter and in the presence of each other, shall prepare the ballot for voting in the manner hereinbefore provided, and, on request, shall read over to such voter the names of candidates on the ballot as so prepared;

(B) Require the election commissioners to indicate to him or her the relative position of the names of the candidates on the ballot, whereupon the voter shall retire to one of the booths or compartments to prepare his or her ballot in the manner hereinbefore provided;

(C) Be assisted by any person of the voter's choice: *Provided*, That such assistance may not be given by the voter's present or former employer or agent of that employer or by the officer or agent of a labor union of which the voter is a past or present member; or

(D) If he or she is handicapped, vote from an automobile, outside the polling place or precinct, in the presence of an election commissioner of each political party.

(2) Any voter who requests assistance in voting but who is believed not to be qualified for such assistance under the provisions of this section shall nevertheless be permitted to vote a challenged ballot with the assistance of any person herein authorized to render assistance.

(3) Any one or more of the election commissioners or poll clerks in the precinct may challenge such ballot on the ground that the voter thereof received assistance in voting it when in his or their opinion that the person who received assistance in voting is not so illiterate, blind, disabled or of such advanced age as to have been unable to vote without assistance. The election commissioner or poll clerk or commissioners or poll clerks making such challenge shall enter the challenge and reason therefor on the form and in the manner prescribed or authorized by article three of this chapter.

(4) An election commissioner or other person who assists a voter in voting:

(A) Shall not in any manner request, or seek to persuade, or induce the voter to vote any particular ticket or for any particular candidate or for or against any public question, and shall not keep or make any memorandum or entry of anything occurring within the voting booth or compartment, and shall not, directly or indirectly, reveal to any person the name of any candidate voted for by the voter, or which ticket he or she had voted, or how he or she had voted on any public question, or anything occurring within the voting booth or compartment or voting machine booth, except when required pursuant to law to give testimony as to such matter in a judicial proceeding; and

(B) Shall sign a written oath or affirmation before assisting such voter on a form prescribed by the secretary of state stating that he or she will not override the actual preference of the voter being assisted, attempt to influence the voter's choice or mislead the voter into voting for someone other than the candidate of voter's choice. Such person assisting the voter shall

also swear or affirm that he or she believes that the voter is voting free of intimidation or manipulation: *Provided*, That no person providing assistance to such voter shall be required to sign such oath or affirmation where the reason for requesting such assistance is the voter's inability to vote without assistance because of blindness as defined in section three, article fifteen, chapter five of this code, and such inability to vote without assistance because of blindness is certified in writing by a physician of the voter's choice and is on file in the office of the clerk of the county commission.

(5) In accordance with instructions issued by the secretary of state, the clerk of the county commission shall provide a form entitled "list of assisted voters", the form of which list shall likewise be prescribed by the secretary of state. The commissioners shall enter the name of each voter receiving assistance in voting the ballot, together with the poll slip number of that voter and the signature of the person or the commissioner from each party who assisted the voter. If no voter shall have been assisted in voting the ballot as herein provided, the commissioners shall likewise make and subscribe to an oath of that fact on such list.

(f) After preparing the ballot the voter shall fold the same so that the face shall not be exposed and so that the names of the poll clerks thereon shall be seen. The voter shall then announce his or her name and present his or her ballot to one of the commissioners who shall hand the same to another commissioner, of a different political party, who shall deposit it in the ballot box, if such ballot is the official one and properly signed. The commissioner of election may inspect every ballot before it is deposited in the ballot box, to ascertain whether it is single, but without unfolding or unrolling it, so as to disclose its content. When the voter has voted, he or she shall retire immediately from the election room, and beyond the sixty-foot limit thereof, and shall not return, except by permission of the commissioners.

(g) Following the election, the oaths or affirmations required by this section from those assisting voters together with the "list of assisted voters", shall be returned by the election commissioners to the clerk of the county commission along with the election supplies, records and returns, who shall make such oaths, affirmations and list available for public inspection and who shall preserve the same for a period of twenty-two months or until disposition is authorized or directed by the secretary of state, or court of record.

(h) Any person making an oath or affirmation required under the provisions of this section who shall therein knowingly swear falsely, or any person who shall counsel, or advise, aid or abet another in the commission of false swearing under this section, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one thousand dollars, or imprisoned in the county jail for a period of not more than one year, or both.

(i) Any election commissioner or poll clerk who authorizes or provides unchallenged assistance to a voter when such voter is known to such election commissioner or poll clerk not to require assistance in voting, shall be guilty of a felony and, upon conviction thereof, shall be fined not more than five thousand dollars, or imprisoned in the penitentiary for a period of not less than one year nor more than five years, or both fined and imprisoned.

§3-1-37. Restrictions on presence and conduct at polls.

(a) Except as otherwise provided in this section, no person, other than the election officers and voters going to the election room to vote and returning therefrom, may be or remain within three hundred feet of the outside entrance to the building housing the polling place while the polls are open. This subsection does not apply to persons who reside or conduct business within such distance of the entrance to the building housing the polling place, while in the discharge of their legitimate business, or to persons whose business requires them to pass and repass within three hundred feet of such entrance.

(b) A person who is delivering a voter to a polling place by motor vehicle may drive such vehicle to a convenient and accessible location to discharge the voter, notwithstanding that the location is within three hundred feet of the outside entrance to the building housing the polling place. Upon discharging such voter from the vehicle, the person shall remove the vehicle from within three hundred feet of the entrance until such time as the voter is to be transported from the polling place or another voter delivered: *Provided*, That vehicles delivering voters who require assistance by reason of blindness, disability or advanced age may remain within three hundred feet of the entrance until such time as the voter is to be transported from the polling place.

(c) The election commissions shall limit the number of voters in the election room so as to preserve order. No person may approach nearer than five feet to any booth or compartment while the election is being held, except the voters to prepare their ballots, or the poll clerks when called on by a voter to assist in the preparation of his ballot, and no person, other than election officers and voters engaged in receiving, preparing and depositing their ballots, may be permitted to be within five feet of any ballot box, except by authority of the board of election commissioners, and then only for the purpose of keeping order and enforcing the law.

(d) Not more than one person may be permitted to occupy any booth or compartment at one time. No person may remain in or occupy a booth or compartment longer than may be necessary to prepare his ballot, and in no event longer than five minutes, except that any person who claims a disability pursuant to section thirty-four of this article shall have additional time up to ten additional minutes to prepare his ballot. No voter, or person offering to vote, may hold any conversation or communication with any person other than the poll clerks or commissioners of election, while in the election room.

(e) The provisions of this section do not apply to persons rendering assistance to blind voters as provided in section thirty-four of this article or to any child fourteen years of age or younger who accompanies a parent, grandparent or legal guardian who is voting. Any dispute concerning the age of a child accompanying a parent, grandparent or legal guardian who is voting shall be determined by the election commissioners.

§3-1-44. Compensation of election officials; expenses.

Each ballot commissioner shall be allowed and paid a sum, to be fixed by the county commission, not exceeding one hundred dollars for each day he or she shall serve as such, but, in no case shall a ballot commissioner receive allowance for more than ten days' services for any one primary, general or special election. Each commissioner of election and poll clerk shall be allowed and paid a sum, to be fixed by the county commission, not exceeding one hundred dollars for one day's

services for attending the school of instruction for election officials if the commissioner or poll clerk provides at least one day's service during an election and a sum not exceeding one hundred fifty dollars for his or her services at any one election: *Provided*, That each commissioner of election and poll clerk shall be paid and allowed a sum not exceeding one hundred fifty dollars for his or her services at any of the three special elections hereinafter specified and described. The commissioners of election obtaining and delivering the election supplies, as provided in section twenty-four of this article, and returning them as provided in articles five and six of this chapter, shall be allowed and paid an additional sum, likewise fixed by the county commission, not exceeding one hundred dollars for all such services at any one election and, in addition, shall be allowed and paid mileage up to the rate of reimbursement authorized per mile as set by the travel management office of the department of administration per mile necessarily traveled in the performance of such services. The rate paid for mileage pursuant to this section may change from time to time in accordance with changes in the reimbursement rates established by the travel management office, or its successor agency. The compensation of election officers, cost of printing ballots and all other expenses incurred in holding and making the return of elections, other than the three special elections hereinafter specified and described, shall be audited by the county commission and paid out of the county treasury. The compensation of election officers, cost of printing ballots and all other reasonable and necessary expenses in holding and making the return of a special election for the purpose of taking the sense of the voters on the question of calling a constitutional convention, of a special election to elect members of a constitutional convention, and of a special election to ratify or reject the proposals, acts and ordinances of a constitutional convention shall be obligations of the state incurred by the ballot commissioners, clerks of the circuit courts, clerks of the county commissions and county commissions of the various counties as agents of the state, and all such expenses shall be audited by the secretary of state. The secretary of state shall prepare and transmit to the county commissions forms on which the county commissions shall certify all such expenses of such special elections to the secretary of state. If satisfied that such expenses as certified by the county commissions are reasonable and were necessarily incurred, the secretary of state shall requisition the necessary warrants from the auditor of the state to be drawn on the state treasurer, and shall mail such warrants directly to the vendors of such special election services, supplies and facilities.

ARTICLE 3. VOTING BY ABSENTEES.

§3-3-2a. Voting booths within public view to be provided by clerk; prohibition against display of campaign material.

Throughout the period of absentee voting in person in the clerk's office as provided in this article, the circuit clerk shall make the following provisions for voting:

- (a) The clerk shall provide a sufficient number of voting booths or devices appropriate to the voting system at which voters may prepare their ballots. The booths or devices shall be in an area separate from but within clear view of the public entrance area of the clerk's office, and shall be arranged to ensure the voter complete privacy in casting the ballot.
- (b) The clerk shall make the voting area secure from interference with the voter and shall ensure that voted and unvoted ballots are at all times secure from tampering. No person, other than a person lawfully assisting the voter according to the provisions of this chapter, may be permitted to come within five feet of the voting booth while the voter is voting. No person, other than the clerk or deputy clerks or members of the board of ballot commissioners assigned to conduct absentee voting, shall enter the area or room set aside for voting.
- (c) When the voting area of the office of the clerk is not fully accessible to voters with physical disabilities, the clerk shall request the county commission to designate an accessible room within the same building as a portion of the clerk's office for the purpose of absentee voting only by persons unable to use the regular area. The area shall be subject to the same requirements as the regular voting area.
- (d) No person may do any electioneering, nor may any person display or distribute in any manner, or authorize the display or distribution of, any literature, posters or material of any kind which tends to influence the voting for or against any candidate or any public question on the property of the county courthouse or judicial annex facilities thereof during the entire period of regular in person absentee voting. The clerk is hereby authorized to remove such material and to direct the sheriff of the county to enforce the prohibition.

§3-3-5b. Procedures for voting a special write-in absentee ballot by qualified persons.

- (a) Notwithstanding any other provisions of this chapter, a person qualified to vote an absentee ballot in accordance with subdivision (3), subsection (d), section one of this article may apply not earlier than the first day of January of an election year for a special write-in absentee ballot for a primary or general election, in conjunction with the application for a regular absentee ballot or ballots. If the application is received after the forty-ninth day preceding the election, the clerk of the circuit court shall honor only the application for local, state and federal offices in general, special and primary elections.
- (b) The application for a special write-in absentee ballot may be made on the federal postcard application form.
- (c) In order to qualify for a special write-in absentee ballot, the voter must state that he or she is unable to vote by regular absentee ballot or in person due to requirements of military service or due to living in isolated areas or extremely remote areas of the world. This statement may be made on the federal postcard application or on a form prepared by the secretary of state and supplied and returned with the special write-in absentee ballot.
- (d) Upon receipt of said application within the time required, the clerk shall issue the special write-in absentee ballot which shall be the same ballot issued under the provisions of the Uniformed and Overseas Citizens Absentee Voting Act of 1986 (Public Law 99-410, 42 U.S.C. 1973, et seq.). Such ballot shall permit the elector to vote in a primary election by indicating

his or her political party affiliation and the names of the specific candidates for each office, and in a general election by writing in a party preference for each office, the names of specific candidates for each office, or the name of the person whom the voter prefers for each office.

(e) When a special federal write-in ballot is received by the clerk from a voter: (1) Who mailed the write-in ballot from any location within the United States; (2) who did not apply for a regular absentee ballot; (3) who did not apply for a regular absentee ballot by mail; or (4) whose application for a regular absentee ballot by mail was received less than thirty days before the election, the write-in ballot shall not be counted.

(f) Any write-in absentee ballot must be received by the clerk prior to the close of the polls on election day or it may not be counted.

ARTICLE 5. PRIMARY ELECTIONS AND NOMINATING PROCEDURES.

§3-5-10. Publication of sample ballots and lists of candidates.

(a) The ballot commissioners of each county shall prepare a sample official primary ballot for each party, and, as the case may be, for the nonpartisan candidates to be voted for at the primary election, according to the provisions of articles four, four-a and five, chapter three, as appropriate to the voting system. If any ballot issue is to be voted on in the primary election, the ballot commissioners shall likewise prepare a sample official ballot for that issue according to the provisions of law authorizing such election.

(b) The facsimile sample ballot for each political party and for nonpartisan candidates or ballot issues shall be published as follows:

(1) For counties in which two or more qualified newspapers publish a daily newspaper, not more than fourteen nor less than eight days preceding the primary election, the ballot commissioners shall publish each sample official primary election ballot as a Class I-0 legal advertisement in the two qualified daily newspapers of different political parties within the county having the largest circulation in compliance with the provisions of article three, chapter fifty-nine of this code;

(2) For counties having no more than one daily newspaper, or having only one or more qualified newspapers which publish weekly, not more than fourteen nor less than eight days preceding the primary election, the ballot commissioners shall publish the sample official primary election ballot as a Class I legal advertisement in the qualified newspaper within the county having the largest circulation in compliance with the provisions of article three, chapter fifty-nine of this code; and

(3) Each facsimile sample ballot shall be a photographic reproduction of the official sample ballot or ballot pages, and shall be printed in a size no less than eighty percent of the actual size of the ballot, at the discretion of the ballot commissioners:

Provided, That when the ballots for the precincts within the county contain different senatorial, delegate, magisterial or executive committee districts or when the ballots for precincts within a city contain different municipal wards, the facsimile shall be altered to include each of the various districts in the appropriate order. If, in order to accommodate the size of each ballot, the ballot or ballot pages must be divided onto more than one page, the arrangement and order shall be made to conform as nearly as possible to the arrangement of the ballot. The publisher of the newspaper shall submit a proof of the ballot and the arrangement to the ballot commissioners for approval prior to publication.

(c) The ballot commissioners of each county shall prepare, in the form and manner prescribed by the secretary of state, an official list of offices and candidates for each office which will appear on the primary election ballot for each party, and, as the case may be, for the nonpartisan candidates to be voted for at such primary election. All information which appears on the ballot, including instructions as to the number of candidates for whom votes may be cast for the office, any additional language which will appear on the ballot below the name of the office, any identifying information relating to the candidates, such as residence, magisterial district or presidential preference and the ballot numbers of the candidates for punch card systems, shall be included in the list, in the same order in which it appears on the ballot. Following the names of all candidates, the list shall include the full title, text and voting positions of any issue to appear on the ballot.

(d) The official list of candidates and issues as provided in subsection (c) of this section shall be published as follows:

(1) For counties in which two or more qualified newspapers publish a daily newspaper, on the last day on which a newspaper is published immediately preceding the primary election, the ballot commissioners shall publish the official list of candidates and issues as a Class I-0 legal advertisement in the two qualified daily newspapers of different political parties within the county having the largest circulation in compliance with the provisions of article three, chapter fifty-nine of this code;

(2) For counties having no more than one daily newspaper, or having only one or more qualified newspapers which publish weekly, on the last day on which a newspaper is published immediately preceding the primary election, the ballot commissioners shall publish the sample official list of nominees and issues as a Class I legal advertisement in the qualified newspaper within the county having the largest circulation in compliance with the provisions of article three, chapter fifty-nine of this code;

(3) The publication of the official list of candidates for each party and for nonpartisan candidates shall be in single or double columns, as required to accommodate the type size requirements as follows: (A) The words "official list of candidates", the name of the county, the words "primary election", the date of the election, the name of the political party or the designation of nonpartisan candidates shall be printed in all capital letters and in bold type no smaller than fourteen point. The designation of the national, state, district or other tickets shall be printed in all capital letters in type no smaller than fourteen point; (B) the title of the office shall be printed in bold type no smaller than twelve point and any voting instructions or other language printed below the title shall be printed in bold type no smaller than ten point; and (C) the names of the candidates shall be printed in all capital letters in bold type no smaller than ten point, and the residence information shall be printed in type no smaller than ten point; and

(4) When any ballot issue is to appear on the ballot, the title of that ballot shall be printed in all capital letters in bold type no smaller than fourteen point. The text of the ballot issue shall appear in no smaller than ten point type. The ballot commissioners may require the publication of the ballot issue under this subsection in the facsimile sample ballot format in

lieu of the alternate format.

(e) Notwithstanding the provisions of subsections (c) and (d) of this section, beginning with the primary election to be held in the year two thousand, the ballot commissioners of any county may choose to publish a facsimile sample ballot for each political party and for nonpartisan candidates or ballot issues instead of the official list of offices and candidates for each office for purposes of the last publication required before any primary election.

§3-5-23. Certificate nominations; requirements and control; penalties.

(a) Groups of citizens having no party organization may nominate candidates for public office otherwise than by conventions or primary elections. In such case, the candidate or candidates, jointly or severally, shall file a declaration with the secretary of state if the office is to be filled by the voters of more than one county, or with the clerk of the circuit court of the county if the office is to be filled by the voters of one county or political subdivision thereof; such declaration to be filed at least thirty days prior to the time of filing the certificate provided by section twenty-four of this article: *Provided*, That the deadline for filing the certificate for persons seeking ballot access as a candidate for the office of president or vice president shall be filed not later than the first day of August preceding the general election. At the time of filing of such declaration each candidate shall pay the filing fee required by law, and if such declaration is not so filed or the filing fee so paid, the certificate shall not be received by the secretary of state, or clerk of the circuit court, as the case may be.

(b) The person or persons soliciting or canvassing signatures of duly qualified voters on such certificate or certificates, may solicit or canvass duly registered voters residing within the county, district or other political division represented by the office sought, but must first obtain from the clerk of the county commission credentials which must be exhibited to each voter canvassed or solicited, which credentials may be in the following form or effect:

State of West Virginia, County of, ss:

This certifies that, a duly registered voter of this State; whose post-office address is, is hereby authorized to solicit and canvass duly registered voters residing in (here place the county, district or other political division represented by the office sought) to sign a certificate purporting to nominate (here place name of candidate heading list on certificate) for the office of and others, at the general election to be held on, 19.....

Given under my hand and the seal of my office this day of, 19.....

.....

Clerk, County Commission of County.

The clerk of each county commission, upon proper application made as herein provided, shall issue such credentials and shall keep a record thereof.

(c) The certificate shall be personally signed by duly registered voters, in their own proper handwriting or by their marks duly witnessed, who must be residents within the county, district or other political division represented by the office sought wherein such canvass or solicitation is made by the person or persons duly authorized. Such signatures need not all be on one certificate. The number of such signatures shall be equal to not less than two percent of the entire vote cast at the last preceding general election for the office in the state, district, county or other political division for which the nomination is to be made, but in no event shall the number be less than twenty-five. The number of such signatures shall be equal to not less than two percent of the entire vote cast at the last preceding general election for any statewide, congressional or presidential candidate, but in no event shall the number be less than twenty-five. Where two or more nominations may be made for the same office, the total of the votes cast at the last preceding general election for the candidates receiving the highest number of votes on each ticket for such office shall constitute the entire vote. No signature on such certificate shall be counted unless it be that of a duly registered voter of the county, district or other political division represented by the office sought wherein such certificate was presented. It shall be the duty of those soliciting signatures to read to each voter whose signature is solicited the statement written on the certificate which gives notice that no person signing such certificate shall vote at any primary election to be held to nominate candidates for office to be voted for at the election to be held next after the date of signing such certificate.

(d) Such certificates shall state the name and residence of each of such candidates; that he is legally qualified to hold such office; that the subscribers are legally qualified and duly registered as voters and desire to vote for such candidates; and may designate, by not more than five words, a brief name of the party which such candidates represent and may adopt a device or emblem to be printed on the official ballot. All candidates nominated by the signing of such certificates shall have their names placed on the official ballot as candidates, as if otherwise nominated under the provisions of this chapter. The secretary of state shall prescribe the form and content of the nomination certificates to be used for soliciting signatures. The content shall include the language to be used in giving written and oral notice to each voter that signing of the nominating certificate forfeits that voter's right to vote in the corresponding primary election.

Offices to be filled by the voters of more than one county shall use separate petition forms for the signatures of qualified voters for each county.

(e) The secretary of state, or the clerk of the circuit court, as the case may be, may investigate the validity of such certificates and the signatures thereon, and if upon such investigation there may be doubt as to the legitimacy and the validity of such certificate, he may request the attorney general of the state, or the prosecuting attorney of the county, to institute a quo warranto proceeding against the nominee or nominees by certificate to determine his or their right to such nomination to public office, and upon request being made, the attorney general or prosecuting attorney shall institute such quo warranto proceeding.

(f) Any person violating the provisions of this section, in addition to penalties prescribed elsewhere for violation of this chapter, is guilty of a misdemeanor, and upon conviction, shall be fined not more than one thousand dollars, or confined in

the county or regional jail for not more than one year, or both, in the discretion of the court: *Provided*, That no criminal penalty may be imposed upon anyone who signs a nomination certificate and votes in the primary election held after the date the certificate was signed.

ARTICLE 6. CONDUCT AND ADMINISTRATION OF ELECTIONS.

§3-6-3. Publication of sample ballots and lists of candidates.

(a) The ballot commissioners of each county shall prepare a sample official general election ballot for all political party or independent nominees, nonpartisan candidates for election, if any, and all ballot issues to be voted for at the general election, according to the provisions of articles four, four-a and six of this chapter, as appropriate to the voting system, and for any ballot issue, according to the provisions of law authorizing such election.

(b) The facsimile sample general election ballot shall be published as follows:

(1) For counties in which two or more qualified newspapers publish a daily newspaper, not more than fourteen nor less than eight days preceding the general election, the ballot commissioners shall publish the sample official general election ballot as a Class I-0 legal advertisement in the two qualified daily newspapers of different political parties within the county having the largest circulation in compliance with the provisions of article three, chapter fifty-nine of this code;

(2) For counties having no more than one daily newspaper, or having only one or more qualified newspapers which publish weekly, not more than fourteen nor less than eight days preceding the primary election, the ballot commissioners shall publish the sample official general election ballot as a Class I legal advertisement in the qualified newspaper within the county having the largest circulation in compliance with the provisions of article three, chapter fifty-nine of this code; and

(3) Each facsimile sample ballot shall be a photographic reproduction of the official sample ballot or ballot pages, and shall be printed in a size no less than eighty percent of the actual size of the ballot, at the discretion of the ballot commissioners: *Provided*, That when the ballots for the precincts within the county contain different senatorial, delegate, magisterial or executive committee districts or when the ballots for precincts within a city contain different municipal wards, the facsimile shall be altered to include each of the various districts in the appropriate order. If, in order to accommodate the size of each ballot, the ballot or ballot pages must be divided onto more than one page, the arrangement and order shall be made to conform as nearly as possible to the arrangement of the ballot. The publisher of the newspaper shall submit a proof of the ballot and the arrangement to the ballot commissioners for approval prior to publication.

(c) The ballot commissioners of each county shall prepare, in the form and manner prescribed by the secretary of state, an official list of offices and nominees for each office which will appear on the general election ballot for each political party, or as independent nominees, and, as the case may be, for the nonpartisan candidates to be voted for at the general election:

(1) All information which appears on the ballot, including the names of parties for which a straight ticket may be cast, instructions relating to straight ticket voting, instructions as to the number of candidates for whom votes may be cast for the office, any additional language which will appear on the ballot below the name of the office, any identifying information relating to the candidates, such as residence, magisterial district, or presidential preference, and the ballot numbers of the candidates for punch card systems, shall be included in the list, in the order specified in subdivision (2) of this subsection. Following the names of all candidates, the list shall include the full title, text and voting positions of any issue to appear on the ballot.

(2) The order of the straight ticket positions, offices and candidates for each office, and the manner of designating the parties, shall be as follows: (A) The straight ticket positions shall be designated "straight (party name) ticket", with the parties listed in the order in which they appear on the ballot, from left to right or from top to bottom, as the case may be; (B) the offices shall be listed in the same order in which they appear on the ballot; (C) the candidates within each office for which one is to be elected shall be listed in the order they appear on the ballot, from left to right or from top to bottom, as the case may be, and the candidate's political party affiliation or independent status shall be indicated by the one or two letter initial specifying the affiliation, placed in parenthesis to the right of the candidate's name; and (D) the candidates within each office for which more than one is to be elected shall be arranged by political party groups in the order they appear on the ballot and the candidate's affiliation shall be indicated as provided in part (C) of this subdivision.

(d) The official list of candidates and issues as provided in subsection (c) of this section shall be published as follows:

(1) For counties in which two or more qualified newspapers publish a daily newspaper, on the last day on which a newspaper is published immediately preceding the general election, the ballot commissioners shall publish the official list of nominees and issues as a Class I-0 legal advertisement in the two qualified daily newspapers of different political parties within the county having the largest circulation in compliance with the provisions of article three, chapter fifty-nine of this code;

(2) For counties having no more than one daily paper, or having only one or more qualified newspapers which publish weekly, on the last day on which a newspaper is published immediately preceding the general election, the ballot commissioners shall publish the sample official list of nominees and issues as a Class I legal advertisement in the qualified newspaper within the county having the largest circulation in compliance with the provisions of article three, chapter fifty-nine of this code;

(3) The publication of the official list of nominees for each party and for nonpartisan candidates shall be in single or double columns, as required to accommodate the type size requirements as follows: (A) The words "official list of nominees and issues", the name of the county, the words "General Election" and the date of the election shall be printed in all capital letters and in bold type no smaller than fourteen point; (B) the designation of the straight ticket party positions shall be printed in all capital letters in bold type no smaller than twelve point, and the title of the office shall be printed in bold type no smaller than twelve point, and any voting instructions or other language printed below the title shall be printed in bold type no smaller than ten point; and (C) the names of the candidates and the initial within parenthesis designating the candidate's affiliation shall be printed in all capital letters in bold type no smaller than ten point, and the residence information shall be printed in type no smaller than ten point; and

(4) When any ballot issue is to appear on the ballot, the title of that ballot shall be printed in all capital letters in bold type no smaller than twelve point. The text of the ballot issue shall appear in no smaller than ten point type. The ballot commissioners may require the publication of the ballot issue under this subsection in the facsimile sample ballot format in lieu of the alternate format.

(e) Notwithstanding the provisions of subsections (c) and (d) of this section, beginning with the general election to be held in the year two thousand, the ballot commissioners of any county may choose to publish a facsimile sample general election ballot, instead of the official list of candidates and issues, for purposes of the last publication required before any general election.

ARTICLE 8. REGULATION AND CONTROL OF ELECTIONS.

§3-8-2. Accounts for receipts and expenditures in elections; requirements for reporting independent expenditures.

(a) Except candidates for party committeemen and committeewomen, in primary and other elections, all candidates for nomination or election and all persons or organizations of any kind advocating or opposing a nomination, election or defeat of any candidate, or the passage or defeat of any issue, shall keep records of receipts and expenditures which are made for political purposes. All such receipts and expenditures shall be subject to regulation by the provisions of this article. Verified financial statements of such records and expenditures shall be made and filed as public records by all candidates and by their financial agents, representatives, or any person acting for and on behalf of any candidate, or the passage or defeat of any issue, and by the treasurers of all political party committees.

(b) In addition to any other reporting required by the provisions of this chapter, any independent expenditure in the amount of one thousand dollars or more for any statewide, legislative or multi-county judicial candidate or in the amount of five hundred dollars or more for any county office, single-county judicial candidate, committee supporting or opposing an issue or candidate on the ballot in more than one county, any municipal candidate or issue on a municipal election ballot, which is made after the eleventh day but more than twelve hours before the day of any election shall be reported, on a form prescribed by the secretary of state, within twenty-four hours after the expenditure is made or debt is incurred for a communication, to the secretary of state by hand-delivery, facsimile or other means to assure receipt by the secretary of state within such twenty-four hour period.

(c) For purposes of this section, "independent expenditure" means an expenditure made by a person other than a candidate or committee for a communication which expressly advocates the election or defeat of a clearly identified candidate but which is made independently of a candidate's campaign and which has not been made with the cooperation or consent of, or in consultation with, or at the request or suggestion of, any candidate or any of his or her agents or authorized committees. An expenditure which does not meet the criteria for independence established in this subsection is considered a contribution.

(d) Any independent expenditure must include a clear and conspicuous public notice which identifies the name of the person who paid for the expenditure and states that the communication is not authorized by the candidate or his or her committee.

§3-8-2a. Detailed accounts and verified financial statements for certain inaugural events; limitations; reporting requirements.

(a) For purposes of this section:

(1) "Inaugural committee" includes any person, organization or group of persons soliciting or receiving contributions for the purpose of funding an inaugural event for a person elected to a statewide public office; and

(2) "Inaugural event" means any event or events held between the general election of a person elected to a statewide public office and ninety days after the general election, whether the event is sponsored by the inaugural committee or the state political party committee representing the party of the person elected and for which the person elected is a prominent participant or for which solicitations of contributions include the name of the person elected in prominent display.

(b) Any inaugural committee soliciting or receiving contributions for the funding of all or any part of an inaugural event for any person elected to a statewide office that receives an individual contribution in excess of two hundred fifty dollars for any such event shall file and retain detailed records of any such contribution.

(c) No person may contribute more than five thousand dollars for any inaugural event. For purposes of this section, "contribution" does not include volunteer personal services but does include in-kind contributions of materials or supplies.

(d) Any inaugural committee, financial agent or any person or officer acting on behalf of such committee which is subject to the provisions of this section, shall file a verified financial statement with the secretary of state on a form prescribed by the state election commission within ninety days of the event. The financial statement shall contain information as may be required by the provisions of this section relating to any contribution in excess of two hundred fifty dollars. The secretary of state shall file and retain such statements as public records for a period of not less than six years.

(e) In addition to any other information required by the state election commission, the report of contributions required by the provisions of this section shall include the methodology of the fund raising, the nature of the expenditures made and the names, addresses and amounts paid to any person.

(f) Amounts received by an inaugural committee for any person elected to a statewide public office, in excess of the amount expended for an inaugural event may be contributed to any educational, cultural or charitable organization. The inaugural committee shall, within sixty days after filing the report required by subsection (d) of this section, expend any excess moneys and report, on a form prescribed by the secretary of state, the names of the organizations to which such excess moneys

were donated. The secretary of state shall file and retain such records as public records for a period of not less than six years.

§3-8-5. Detailed accounts and verified financial statements required.

(a) Every candidate, financial agent, person and association of persons, organization of any kind, including every corporation, directly or indirectly, supporting a political committee established pursuant to paragraph (C), subdivision (1), subsection (b), section eight of this article or engaging in other activities permitted by said section and also including the treasurer or equivalent officer of such association or organization, advocating or opposing the nomination, election or defeat of any candidate or the passage or defeat of any issue, thing or item to be voted upon, and the treasurer of every political party committee shall keep detailed accounts of every sum of money or other thing of value received by him, including all loans of money or things of value, and of all expenditures and disbursements made, liabilities incurred, by such candidate, financial agent, person, association or organization or committee, for political purposes, or by any of the officers or members of such committee, or any person acting under its authority or on its behalf.

(b) Every person or association of persons required to keep detailed accounts under this section shall file with the officers hereinafter prescribed a detailed itemized statement, subscribed and sworn to before an officer authorized to administer oaths, according to the following provisions and times:

(1) On the last Saturday in March or within fifteen days thereafter next preceding the primary election day whenever the total of all financial transactions relating to an election exceed five hundred dollars a statement which shall include all financial transactions which have taken place by the date of that statement, subsequent to any previous statement filed within the previous five years under this section, or if no previous statement was filed, all financial transactions made within the preceding five years; and

(2) Not less than seven nor more than ten days preceding each primary or other election, a statement which shall include all financial transactions which have taken place by the date of such statement, subsequent to the previous statement, if any; and

(3) Not less than twenty-five nor more than thirty days after each primary or other election, a statement which shall include all financial transactions which have taken place by the date of such statement, subsequent to the previous statement; and

(4) On the first day of July, one thousand nine hundred eighty-five, and thereafter on the last Saturday in March or within fifteen days thereafter annually, whenever contributions or expenditures relating to an election exceed five hundred dollars or whenever any loans are outstanding, a statement which shall include all financial transactions which have taken place by the date of such report, subsequent to any previous report; and

(5) On the last Saturday in September or within fifteen days thereafter next preceding the general election day whenever the total of all financial transactions relating to an election exceed five hundred dollars or whenever any loans are outstanding, a statement which shall include all financial transactions which have taken place by the date of such statement, subsequent to the previous statement.

(c) Every person who shall announce as a write-in candidate for any elective office and his financial agent or election organization of any kind shall comply with all of the requirements of this section after public announcement of such person's candidacy has been made.

(d) For purposes of this section, the term "financial transactions" includes all contributions or loans received and all repayments of loans or expenditures made to promote the candidacy of any person by any candidate or any organization advocating or opposing the nomination, election or defeat of any candidate or to promote the passage or defeat of any issue, thing or item to be voted on.

(e)(1) Except as provided in subdivision (2) of this subsection, any person, association, organization, corporation or other legal entity who publishes, distributes or disseminates any scorecard, voter guide or other written analysis of a candidate's position or votes on specific issues within sixty days of an election is presumed to be engaging in such activity for the purpose of advocating or opposing the nomination, election or defeat of any candidate.

(2) The provisions of subdivision (1) of this subsection shall not apply to:

(A) The publication, distribution or dissemination of such materials in the form of a news release to broadcast or print media;

(B) Persons who engage in news or feature reporting activities and editorial comment as working members of the press, radio or television, and persons who publish, distribute or disseminate such news, features or editorial comment through a newspaper, book, regularly published periodical, radio station or television station;

(C) The members of a nonprofit corporation or other organization who have such membership in accordance with the provisions of the articles of incorporation, bylaws or other instruments creating its form of organization and who have bona fide rights and privileges in the organization such as the right to vote, to elect officers, directors and issues, to hold office or otherwise as ordinarily conferred on members of such organizations who publish, distribute or disseminate materials described in subdivision (1) of this subsection to other such members; or

(D) The employees of a church or synagogue which currently holds or is eligible to hold an exemption as a church issued by the internal revenue service under the provisions of §26 U.S.C. 501(c)(3) who publish, distribute or disseminate materials described in subdivision (1) of this subsection within the membership of the church or synagogue or upon the premises of any facility owned or controlled by the church or synagogue: *Provided*, That the exemption from the presumption provided by this subparagraph shall not apply to such employees of a church when the church or synagogue otherwise advocates or opposes the nomination, election or defeat of any candidate, or the passage of any issue, thing or item to be voted upon.

(f) No scorecard, voter guide or other written analysis of a candidate's position or votes on specific issues shall be published, distributed or disseminated within sixty days of an election unless it shall state thereon the name of the person, association, organization, corporation or other legal entity authorizing its publication, distribution or dissemination.

§3-8-5a. Information required in financial statement.

(a) Each financial statement required by the provisions of this article shall contain only the following information:

- (1) The first name, middle initial, if any, and last name, residence and mailing address and telephone number of each candidate, financial agent, treasurer or person, and the full name, address and telephone number of each association, organization or committee filing a financial statement.
 - (2) The balance of cash and any other sum of money on hand at the beginning and the end of the period covered by the financial statement.
 - (3) The first name, middle initial, if any, and the last name in the case of an individual, and the full name of each firm, association or committee, and the amount of such contribution of such individual, firm, association or committee, and, if the aggregate of the sum or sums contributed by any one such individual, firm, association or committee exceeds two hundred fifty dollars, there shall also be reported the residence and mailing address and, in the case of an individual, the major business affiliation and occupation. A contribution totaling more than fifty dollars of currency of the United States or currency of any foreign country by any one contributor is prohibited and a violation of this provision is subject to section five-d of this article. The report on which contributions required by this subdivision shall not distinguish between contributions made by individuals and contributions made by firms, associations or committees.
 - (4) The total amount of contributions received during the period covered by the financial statement.
 - (5) The first name, middle initial, if any, and the last name, residence and mailing address of any individual or the full name and mailing address of each lending institution making a loan or of the spouse cosigning a loan, as appropriate, the amount of any loan received the date and terms of the loan including the interest and repayment schedule, and a copy of the loan agreement.
 - (6) The first name, middle initial, if any, and the last name, residence and mailing address of any individual or the full name and mailing address of each firm, association or committee having previously made or cosigned a loan for which payment is made or a balance is outstanding at the end of the period, together with the amount of repayment on the loan made during the period and the balance at the end of the period.
 - (7) The total outstanding balance of all loans at the end of the period.
 - (8) The first name, middle initial, if any, and the last name, residence and mailing address of any individual, or the full name and mailing address of each firm, association or committee to whom each expenditure was made or liability incurred, together with the amount and purpose of each expenditure or liability incurred and the date of each transaction.
 - (9) The total expenditure for the nomination, election or defeat of a candidate or any person or organization advocating or opposing the nomination, election or defeat of any candidate, or the passage or defeat of any issue, thing or item to be voted upon, in whose behalf an expenditure was made or a contribution was given for the primary or other election.
 - (10) The total amount of expenditures made during the period covered by the financial statement.
- (b) Any unexpended balance at the time of making the financial statements herein provided for shall be properly accounted for in that financial statement and shall appear as a balance in the next following financial statement.
- (c) Each financial statement required by this section shall contain a separate section setting forth the following information for each fund-raising event held during the period covered by the financial statement:
- (1) The type of event, date held, and address and name, if any, of the place where the event was held.
 - (2) All of the information required by subdivision (3), subsection (a) of this section.
 - (3) The total of all moneys received at the fund-raising event.
 - (4) The expenditures incident to the fund-raising event.
 - (5) The net receipts of the fund-raising event.
- (d) When any lump sum payment is made to any advertising agency or other disbursing person who does not file a report of detailed accounts and verified financial statements as required in this section, such lump sum expenditures shall be accounted for in the same manner as provided for herein.
- (e) Any contribution or expenditure made by or on behalf of a candidate for public office, to any other candidate, or committee for a candidate for any public office in the same election shall be accounted for in accordance with the provisions of this section.
- (f) No person, firm, association or committee may make any contribution except from their own funds, unless such person, firm, association or committee discloses in writing to the person required to report under this section the first name, middle initial, if any, and the last name in the case of an individual, or the full name in case of a firm, association or committee, residence and mailing address and the major business affiliation and occupation of the person, firm, association or committee which furnished the funds to such contributor. All such disclosures shall be included in the statement required by this section.
- (g) Any firm, association, committee or fund permitted by section eight of this article to be a political committee shall disclose on the financial statement its corporate or other affiliation.
- (h) No contribution may be made, directly or indirectly, in a fictitious name, anonymously or by one person through an agent, relative or other person so as to conceal the identity of the source of the contribution or in any other manner so as to effect concealment of the contributor's identity.
- (i) No person, firm, association or committee may accept any contribution for the purpose of influencing the nomination, election or defeat of a candidate or for the passage or defeat of any issue or thing to be voted upon unless the identity of the donor and the amount of the contribution is known and reported.
- (j) When any candidate, organization, committee or person receives any anonymous contribution which cannot be returned because the donor cannot be identified, that contribution shall be donated to the general revenue fund of the state. Any anonymous contribution shall be recorded as such on the candidate's financial statement, but may not be expended for election expenses. At the time of filing, the financial statement shall include a statement of distribution of anonymous

contributions, which total amount shall equal the total of all anonymous contributions received during the period.

(k) Any membership organization which raises funds for political purposes by payroll deduction assessing them as part of its membership dues or as a separate assessment may report the amount raised as follows:

(1) If the portion of dues or assessments designated for political purposes equals twenty-five dollars or less per member over the course of a calendar year, the total amount raised for political purposes through membership dues or assessments during the period is reported by showing the amount required to be paid by each member and the number of members.

(2) If the total payroll deduction for political purposes of each participating member equals twenty-five dollars or less over the course of a calendar or fiscal year, as specified by the organization, the organization shall report the total amount received for political purposes through such payroll deductions during the reporting period, and to the maximum extent possible, the amount of each yearly payroll deduction contribution level and the number of members contributing at each such specified level. The membership organization shall maintain records of the name and yearly payroll deduction amounts of each participating member.

(3) If any member contributes to the membership organization through individual voluntary contributions by means other than payroll deduction, membership dues, or assessments as provided in this subsection, the reporting requirements of subdivision (3), subsection (a) of this section shall apply. Funds raised for political purposes must be segregated from the funds for other purposes and listed in its report.

(l) For purposes of this section:

(1) "Political purposes" means advocating or opposing the nomination, election or defeat of one or more candidates, supporting the retirement of the debt of a candidate or activities of an established political party or an organization which has declared itself a political party, supporting the administration or activities of a political committee or advocating or opposing the passage of a ballot issue.

(2) "Membership organization" means a group that grants bona fide rights and privileges, such as the right to vote, to elect officers or directors, and the ability to hold office, to its members, and which uses a majority of its membership dues for purposes other than political purposes. This term shall not include organizations that grant membership upon receiving a contribution.

(3) "Fund-raising event" means an event such as a dinner, reception, testimonial, cocktail party, auction or similar affair through which contributions are solicited or received by such means as the purchase of a ticket, payment of an attendance fee or by the purchase of goods or services.

(m) Notwithstanding the provisions of section five of this article or of the provisions of this section to the contrary, an alternative reporting procedure may be followed by a political party executive committee or a political action committee representing a political party in filing financial reports for fund-raising events if the total profit does not exceed five thousand dollars per year. A political party executive committee or a political action committee representing a political party may report gross receipts for the sale of food, beverages, services, novelty items, raffle tickets or memorabilia, except that any receipt of more than fifty dollars from an individual or organization shall be reported as a contribution. A political party executive committee or a political action committee representing a political party using this alternative method of reporting shall report:

(i) The name of the committee; (ii) the type of fund-raising activity undertaken; (iii) the location where the activity occurred; (iv) the date of the fund raiser; (v) the name of any individual who contributed more than fifty dollars worth of items to be sold; (vi) the name and amount received from any person or organization purchasing more than fifty dollars worth of food, beverages, services, novelty items, raffle tickets or memorabilia; (vii) the gross receipts of the fund raiser; and (viii) the date, amount, purpose and name and address of each person or organization from whom items with a fair market value of more than fifty dollars were purchased for resale.

§3-8-5b. Where financial statements shall be filed; filing date prescribed.

(a) The sworn financial statements provided for in this article shall be filed, by or on behalf of candidates, with the secretary of state for legislative offices and for state and other offices to be nominated or elected by the voters of a political division greater than a county, and with the clerk of the county commission by all other candidates for offices to be nominated or elected.

(b) The statements may be filed by mail, in person, or by facsimile or other electronic means of transmission.

(c) For purposes of this article, the filing date of a financial statement shall, in the case of mailing, be the date of the postmark of the United States postal service, and in the case of hand delivery or delivery by facsimile or other electronic means of transmission, the date delivered to the office of the secretary of state or to the office of the clerk of the county commission, in accordance with the provisions of subsection (a) of this section, during regular business hours of such office.

(d) The sworn financial statements required to be filed by this section with the secretary of state shall be posted on the internet by the secretary of state within forty-five days from the date the financial statement was filed.

§3-8-5f. Loans to candidates, organizations or persons for election purposes.

(a) No candidate, financial agent, person or association of persons or organization advocating or opposing the nomination or election of any candidate or the passage or defeat of any issue or item to be voted upon may receive any money or any other thing of value as a loan toward election expenses except from the candidate, his or her spouse or a lending institution. All loans shall be evidenced by a written agreement executed by the lender, whether the candidate, his or her spouse, or the lending institution. Such agreement shall state the date and amount of the loan, the terms, including interest and repayment schedule, and a description of the collateral, if any, and the full names and addresses of all parties to the agreement. A copy

of the agreement shall be filed with the financial statement next required after the loan is executed.

(b) Loans may only be made in the regular course of business by a lending institution which is a state bank, a federally chartered depository institution (including a national bank) or a depository institution whose deposits are insured by the federal deposit insurance corporation or the national credit union administration. Such loans shall be subject to the following requirements:

- (1) Endorsements or guarantees of such loans may be made by the candidate or his or her spouse;
- (2) Endorsements or guarantees of such loans by parties other than the candidate or his or her spouse may be made only to the extent of the contribution limits established in this article; and
- (3) No other form of security shall be furnished in connection with such loans by any party other than the candidate or his or her spouse.

(c) The provisions of this section shall not be construed to prohibit a candidate or his or her spouse from lending money to the candidate or to the candidate's political committee: *Provided*, That the spouse of a candidate may not borrow money from a third party other than a lending institution authorized to make loans under this section for the purposes of lending money to the candidate or the candidate's political committee.

§3-8-9. Lawful and unlawful election expenses; public opinion polls and limiting their purposes; limitation upon expenses; use of advertising agencies and reporting requirements; delegation of expenditures.

(a) No candidate, financial agent or treasurer of a political party committee shall pay, give or lend, either directly or indirectly, any money or other thing of value for any election expenses, except for the following purposes:

- (1) For rent, maintenance, office equipment and other furnishing of offices to be used as political headquarters and for the payment of necessary clerks, stenographers, typists, janitors and messengers actually employed therein;
- (2) In the case of a candidate who does not maintain a headquarters, for reasonable office expenses, including, but not limited to, filing cabinets and other office equipment and furnishings, computers, computer hardware and software, scanners, typewriters, calculators, audio visual equipment, the rental of the use of the same, or for the payment for the shared use of same with the candidate's business and for the payment of necessary clerks, stenographers and typists, actually employed;
- (3) For printing and distributing books, pamphlets, circulars and other printed matter and radio and television broadcasting and painting, printing and posting signs, banners and other advertisements, including contributions to charitable, educational or cultural events, for the promotion of the candidate, the candidate's name or an issue on the ballot;
- (4) For renting and decorating halls for public meetings and political conventions, for advertising public meetings, and for the payment of traveling expenses of speakers and musicians at such meetings;
- (5) For the necessary traveling and hotel expenses of candidates, political agents and committees, and for stationery, postage, telegrams, telephone, express, freight and public messenger service;
- (6) For preparing, circulating and filing petitions for nomination of candidates;
- (7) For examining the lists of registered voters, securing copies thereof, investigating the right to vote of the persons listed therein and conducting proceedings to prevent unlawful registration or voting;
- (8) For conveying voters to and from the polls;
- (9) For securing publication in newspapers and by radio and television broadcasting of documents, articles, speeches, arguments and any information relating to any political issue, candidate or question or proposition submitted to a vote;
- (10) For conducting public opinion poll or polls. For the purpose of this section, the phrase "conducting of public opinion poll or polls" shall mean and be limited to the gathering, collection, collation and evaluation of information reflecting public opinion, needs and preferences as to any candidate, group of candidates, party, issue or issues. No such poll shall be deceptively designed or intentionally conducted in a manner calculated to advocate the election or defeat of any candidate or group of candidates or calculated to influence any person or persons so polled to vote for or against any candidate, group of candidates, proposition or other matter to be voted on by the public at any election: *Provided*, That nothing herein shall prevent the use of the results of any such poll or polls to further, promote or enhance the election of any candidate or group of candidates or the approval or defeat of any proposition or other matter to be voted on by the public at any election;
- (11) For legitimate advertising agency services, including commissions, in connection with any campaign activity for which payment is authorized by subdivisions (3), (4), (5), (6), (7), (9) and (10) of this subsection;
- (12) For the purchase of memorials, flowers or citations by political party executive committees or political action committees representing a political party;
- (13) For the purchase of nominal noncash expressions of appreciation following the close of the polls of an election or within thirty days thereafter;
- (14) For the payment of dues or subscriptions to any national, state or local committee of any political party; and
- (15) For contributions to a county party executive committee, state party executive committee or a state party legislative caucus political committee.

(b) Every liability incurred and payment made shall be at a rate and for a total amount which is proper and reasonable and fairly commensurate with the services rendered.

(c) Every advertising agency subject to the provisions of this article shall file, in the manner and form required by section five-a of this article, the financial statements required by section five of this article at the times required therein and include therein, in itemized detail, all receipts from and expenditures made on behalf of a candidate, financial agent or treasurer of a political party committee.

(d) Any candidate may designate a financial agent by a writing duly subscribed by him which shall be in such form and filed in accordance with the provisions of section four of this article.

§3-8-10. Use of certain contributions.

After the first day of July, two thousand, amounts received by a candidate as contributions that are in excess of any amount necessary to defray his or her expenditures may be used by the candidate to defray any ordinary and necessary expenses incurred in connection with his or her duties as a holder of public office, may be contributed after the general election to any charitable organization, or may be transferred, without limitation, to any national, state or local committee of any political party or to any candidate for public office.

The state election commission shall promulgate legislative rules, in accordance with the provisions of chapter twenty-nine-a of this code, to establish guidelines for the administration of this section.

§3-8-12. Additional acts forbidden; circulation of written matter; newspaper advertising; solicitation of contributions; intimidation and coercion of employees; promise of employment or other benefits; limitations on contributions; public contractors; penalty.

(a) No person shall publish, issue or circulate, or cause to be published, issued or circulated, any anonymous letter, circular, placard, or other publication tending to influence voting at any election.

(b) No owner, publisher, editor or employee of a newspaper or other periodical shall insert, either in its advertising or reading columns, any matter, paid for or to be paid for, which tends to influence the voting at any election, unless directly designating it as a paid advertisement and stating the name of the person authorizing its publication and the candidate in whose behalf it is published.

(c) No person shall, in any room or building occupied for the discharge of official duties by any officer or employee of the state or a political subdivision thereof, solicit orally or by written communication delivered therein, or in any other manner, any contribution of money or other thing of value for any party or political purpose, from any postmaster or any other officer or employee of the federal government, or officer or employee of the state, or a political subdivision thereof. No officer, agent, clerk or employee of the federal government, or of this state, or any political subdivision thereof, who may have charge or control of any building, office or room, occupied for any official purpose, shall knowingly permit any person to enter the same for the purpose of therein soliciting or receiving any political assessments from, or delivering or giving written solicitations for, or any notice of, any political assessments to, any officer or employee of the state, or a political subdivision thereof.

(d) Except as provided in section eight of this article, no person entering into any contract with the state or its subdivisions, or any department or agency thereof, either for rendition of personal services or furnishing any material, supplies or equipment or selling any land or building to the state, or its subdivisions, or any department or agency thereof, if payment for the performance of such contract or payment for such material, supplies, equipment, land or building is to be made, in whole or in part, from public funds shall, during the period of negotiation for or performance under such contract or furnishing of materials, supplies, equipment, land or buildings, directly or indirectly make any contribution to any political party, committee or candidate for public office or to any person for political purposes or use; nor shall any person or firm solicit any contributions for any such purpose during any such period.

(e) No person shall, directly or indirectly, promise any employment, position, work, compensation or other benefit provided for, or made possible, in whole or in part, by act of the Legislature, to any person as consideration, favor or reward for any political activity for the support of or opposition to any candidate, or any political party in any election.

(f) No person shall, directly or indirectly, make any contribution in excess of the value of one thousand dollars in connection with any campaign for nomination or election to or on behalf of any statewide or national elective office, or in excess of the value of one thousand dollars, in connection with any other campaign for nomination or election to or on behalf of any other elective office in the state or any of its subdivisions, or in connection with or on behalf of any committee or other organization or person engaged in furthering, advancing or advocating the nomination or election of any candidate for any such office.

(g)(1) Notwithstanding the provisions of subsection (f) of this section to the contrary, the aggregate contributions made to a state party executive committee shall be permitted only pursuant to the limitations imposed by the provisions of this subsection.

(2) No person shall, directly or indirectly, make contributions to a state party executive committee which, in the aggregate, exceed the value of one thousand dollars in any calendar year.

(h) The limitations on contributions contained in this section do not apply to transfers between and among a state party executive committee or a state party's legislative caucus political committee from national committees of the same political party: *Provided*, That transfers permitted herein shall not exceed fifty thousand dollars in the aggregate in any calendar year to any such state party executive committee or state party legislative caucus political committee: *Provided, however*, That such moneys transferred shall only be used for voter registration and get-out- the vote activities of the state committees.

(i) No person shall solicit any contribution from any nonelective salaried employee of the state government or of any of its subdivisions or coerce or intimidate any such employee into making such contribution. No person shall coerce or intimidate any nonsalaried employee of the state government or any of its subdivisions into engaging in any form of political activity. The provisions hereof shall not be construed to prevent any such employee from making such a contribution or from engaging in political activity voluntarily, without coercion, intimidation or solicitation.

(j) No person shall solicit a contribution from any other person without informing such other person at the time of such solicitation of the amount of any commission, remuneration or other compensation that the solicitor or any other person will receive or expect to receive as a direct result of such contribution being successfully collected. Nothing in this subsection shall be construed to apply to solicitations of contributions made by any person serving as an unpaid volunteer.

(k) No person shall place any letter, circular, flyer, advertisement, election paraphernalia, solicitation material or other printed or published item tending to influence voting at any election in a roadside receptacle unless it is: (1) Approved for placement

into a roadside receptacle by the business or entity owning the receptacle; and (2) contains a written acknowledgment of such approval. This subdivision does not apply to any printed material contained in a newspaper or periodical published or distributed by the owner of the receptacle. The term "roadside receptacle" means any container placed by a newspaper or periodical business or entity to facilitate home or personal delivery of a designated newspaper or periodical to its customers. (l) Any person violating any provision of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one thousand dollars, or confined in jail for not more than one year, or, in the discretion of the court, be subject to both such fine and confinement.